IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

F.A.O. No. 1599 of 2007 (O&M)

DATE OF DECISION : 24.04.2007

New Public School, Sector 18, Chandigarh

.... APPELLANT

Versus

Smt. Jogindro Devi and another

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. G.S. Bal, Advocate,
for the appellant.

New Public School, Sector 18, Chandigarh, who is the registered owner of the offending vehicle bearing registration No. CH-01H-8927, has filed this appeal against the award dated 5.12.2006, passed by the Motor Accident Claims Tribunal, Chandigarh, whereby an amount of Rs. 2 lacs with interest has been awarded as compensation to the claimants on account of death of their son Kewal Kumar due to the rash and negligent driving of the driver of the aforesaid vehicle.

I have heard counsel for the appellant and gone through the impugned award.

In the claim petition, the appellant was impleaded being registered owner of the offending vehicle. One Kulwinder Singh was also impleaded as owner being transferee of the said vehicle prior to the date of accident. Subsequently, the claimants gave up Kulwinder Singh and ultimately, the claim was awarded against the appellant.

Counsel for the appellant, while referring to a Division Bench judgment of this Court in ***Vipin Kumar Sharma*** v. ***Jagwant Kaur and others,*** 2005 (3) P.L.R. 454, submits that though the appellant being a registered owner is liable to pay the amount of compensation to the

claimants as per the award, but it has a right to recover the said amount from the transferee before the civil court after establishing that the offending vehicle was actually transferred to the aforesaid person, before the accident in question. Counsel submits that though he does not want to press this appeal, but liberty be granted to the appellant to file civil suit for recovery of the amount of compensation from Kulwinder Singh, to whom the offending vehicle was transferred prior to the date of accident. In this case, the question as to whether the offending vehicle was transferred by the appellant to Kulwinder Singh before the accident has neither been considered nor decided, therefore, I find substance in the prayer made by the learned counsel for the appellant.

Thus, this appeal is dismissed as not pressed with liberty to the appellant to file civil suit for recovery of the amount of compensation paid under the impugned award, from Kulwinder Singh, on the plea that the offending vehicle was actually transferred by the appellant in his favour prior to the date of accident.

April 24, 2007 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**